



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JANUARY 13, 2014

ITEM NUMBER: PH-4

SUBJECT: REVOCATION OF CONDITIONAL USE PERMITS PA-05-40 AND PA-91-82 FOR A FORMER DELI AND MARKET APPROVED TO OPERATE UNDER AN OFF-SALE STATE ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE
3033 BRISTOL STREET, SUITE G

DATE: JANUARY 2, 2014

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MEL LEE, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611
mel.lee@costamesaca.gov

PROJECT DESCRIPTION

The City of Costa Mesa has initiated the revocation of Conditional Use Permits PA-05-40 and PA-91-82 for the former Bristol Deli and Market, which was permitted to operate under a State Alcoholic Beverage Control (ABC) License Type 21 (Off-Sale General). The deli and market closed in November 2010.

RECOMMENDATION

Revoke Conditional Use Permits PA-05-40 and PA-91-82 by adoption of Planning Commission resolution.

BACKGROUND/ANALYSIS

Project Site/Environs

The property is located near the southwest corner of Bristol Street and Paularino Avenue, and contains a one-story commercial retail center. The property is zoned C1 (Local Business District) and has a General Plan land use designation of General Commercial. The subject tenant space is a 1,440 square foot space located in the southwest corner of the L-shaped building (Suite G).

PA-91-82

On September 23, 1991, Planning Commission approved Planning Application PA-91-82, a conditional use permit for a deli and market (Alvand Market) to operate under a State Alcoholic Beverage Control (ABC) license Type 20 (Off-Sale Beer and Wine) license.

PA-05-40

On October 24, 2005, Planning Commission approved PA-05-40, an amendment to PA-91-82 to change the Type 20 license to a Type 21 (Off-Sale General) ABC license for the deli and market, which was renamed Bristol Deli and Market.

According to City records, the deli and market closed in November 2010; the tenant space is currently occupied by an insurance office. The Type 21 ABC license for the former deli and market at this location is proposed to be transferred to the existing service station and convenience store at 751 Baker Street, Unit A (USA Gasoline) under Planning Application PA-13-08 (a premise-to-premise transfer). As a result, staff is initiating the revocation of the above conditional use permits for the former location of this license.

Basis for Revocation

Once approved, conditional use permits "run with the land". However, a condition of approval was imposed upon the 2005 conditional use permit which stated that the conditional use permit shall expire upon discontinuance of the activity authorized by the permit for a period of 180 days or more. In this case, the deli and market has not operated at the property and therefore no alcohol has been served since November 2010, a period of more than 720 days. Municipal Code Section 13-29(o) allows the Planning Commission to modify or revoke any planning application if it is found to be a public nuisance or not in compliance with the conditions of approval.

In this case, the subject conditional use permit is not in compliance with the conditions of approval because the use has been discontinued for a period far in excess of 180 days. Therefore, the permit has expired and the Commission is justified in revoking the conditional use permit absent any evidence presented to the contrary.

On December 11, 2013 staff sent a letter to the property owner advising him of the proposed revocation of the use permit. As of the date of this report, staff has not received any communications from the property owner.

LEGAL REVIEW

The draft resolution and the findings for revoking the conditional use permits have been reviewed and approved as to form by the City Attorney's Office.

ALTERNATIVES

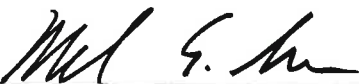
The Commission may take no action to revoke the use permits. If a revocation of the use permits is not recorded, the CUP approvals would continue to remain on record for the property despite it technically expiring. A new tenant could attempt to operate a deli and market under an off-sale ABC license without obtaining approval of a new conditional use permit.

ENVIRONMENTAL DETERMINATION


The revocation is exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15321 for Enforcement Actions by Regulatory Agencies.

CONCLUSION

Revocation is warranted due to the cessation of the use at this location and resulting expiration of the conditional use permit. If a similar use is proposed in the future, a new conditional use permit would be required. Therefore, staff recommends that the use permits be revoked.



MEL LEE, AICP
Senior Planner



GARY ARMSTRONG, AICP
Economic and Development Services Director/
Deputy CEO

Attachments: 1. Draft Planning Commission Resolution
 2. Staff Reports and Attachments for PA-05-40 and PA-91-82

cc: Director of Economic & Development / Deputy CEO
 Sr. Deputy City Attorney
 Public Services Director
 City Engineer
 Transportation Services Manager
 Fire Protection Analyst
 Staff (6)

BACO Limited LLC
C/O John B. Heffernan
23 Corporate Plaza Drive #200
Newport Beach, CA 92660

RESOLUTION NO. PC-14-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA REVOKING CONDITIONAL USE PERMITS PA-05-40 AND PA-91-82 FOR AN OFF-SALE ABC LICENSE FOR A MARKET AND DELI FORMERLY LOCATED AT 3033 BRISTOL STREET, SUITE G

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, On September 23, 1991, Planning Commission approved Planning Application PA-91-82, a conditional use permit for a deli and market (Alvand Market) to operate under a State Alcoholic Beverage Control (ABC) license Type 20 (Off-Sale Beer and Wine) license.

WHEREAS, On October 24, 2005, Planning Commission approved PA-05-40, an amendment to PA-91-82 to change the Type 20 license to a Type 21 (Off-Sale General) ABC license for the deli and market, which was renamed Bristol Deli and Market.

WHEREAS, Planning imposed Condition of Approval #1 for Planning Application PA-91-82 as amended by application PA-05-40 allowing a Type 21 license for sale of alcohol provided that the conditional use permit shall expire upon the discontinuance of the authorized activity for a period of 180 days or more.

WHEREAS, the authorized activity was discontinued at this location in November 2010, and such activity/use has not been continued from that date, a period longer than the 180 days required for expiration of the conditional use permit.

WHEREAS, based upon the cessation of the use and expiration of the subject conditional use permit authorizing the Type 21 license, the City has initiated revocation of Conditional Use Permits PA-05-40 and PA-91-82 upon the grounds that the owner of the conditional use permit is not in compliance with the conditions of approval.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 13, 2014.

WHEREAS, the property owner did not submit an objection to the revocation of the conditional use permits and there is sufficient evidence to establish the authorized use was discontinued for a period of 180 days or more.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **REVOKES** Conditional Use Permits PA-05-40 and PA-91-82 with respect to the property described above.

PASSED AND ADOPTED this 13th day of January, 2014.

Jim Fitzpatrick, Chair,
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on January 13, 2014, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT A

- A. Code Section 13-29(o) allows the Planning Commission to modify or revoke any planning application if the following is found:

1. If the use is found to be a public nuisance or;
2. If the use is found to not be in compliance with the conditions of approval.

Additional facts and findings are as follows:

On September 23, 1991, Planning Commission approved Planning Application PA-91-82, a conditional use permit for a deli and market (Alvand Market) to operate under a State Alcoholic Beverage Control (ABC) license Type 20 (Off-Sale Beer and Wine) license. On October 24, 2005, Planning Commission approved PA-05-40, an amendment to PA-91-82 to change the Type 20 license to a Type 21 (Off-Sale General) ABC license for the deli and market, which was renamed Bristol Deli and Market.

According to City records, the deli and market closed in November 2010, and the tenant space is currently occupied by an insurance office. There has been no sale of alcohol under the Type 21 ABC license since November 2010. As a result, the conditional use permit allowing the use of a Type 21 ABC license has expired based upon the discontinuance for a period of 180 days or more of the authorized activity. Revocation of the above conditional use permits was initiated for the former location.

Once approved, use permits "run with the land". Despite the absence of alcohol sales under the Type 21 ABC license since November of 2010, and despite the resulting termination under the conditions of approval, a future applicant could seek to re-establish alcohol sales under a Type 21 ABC license without having to obtain approval of a new conditional use permit. Code Section 13-29(o) allows the Planning Commission to modify or revoke any planning application if it is found to be a public nuisance or not in compliance with the conditions of approval.

In this case, the holder of the conditional use permit is not in compliance with the conditional use permit authorizing use of a Type 21 ABC license because the authorized use permit expired upon the discontinuance of the authorized use.

On December 11, 2013 staff sent a letter to the property owner, advising him of the proposed revocation of the use permit. No communications were received from the property owner.

- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15321 for Enforcement Actions by Regulatory Agencies.
- C. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: OCTOBER 24, 2005

TL 4.
ITEM NUMBER:

SUBJECT: CONDITIONAL USE PERMIT PA-05-40
ALVAND MARKET
3033 BRISTOL STREET, SUITE G

DATE: OCTOBER 13, 2005

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP SENIOR PLANNER (714)754-5136

DESCRIPTION

The applicant is requesting approval of a modification to conditional use permit PA-91-82 for an existing delicatessen and market to add off-sale liquor to the existing permitted off-sale beer and wine sales.

APPLICANT

The applicant is Donald A. Bailey, representing the property owner, John B. Heffernan.

RECOMMENDATION

Approve by adoption of Planning Commission resolution, subject to conditions.



MEL LEE, AICP
Senior Planner



R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

On September 23, 1991, Planning Commission approved PA-91-82, a conditional use permit for the current business. Alvand Market is a combination market and delicatessen selling specialty food items and is allowed to have an indoor and outdoor seating area of not more than 12 seats. The center is nonconforming with regard to on-site parking and the business has no unusual operating characteristics that would allow an increase in seating.

The business currently operates under a State Alcoholic Beverage Control (ABC) license Type "20" – Off-Sale Beer and Wine license. The applicant is proposing to add liquor to their existing sales of beer and wine by acquiring a Type "21" – Off-Sale General, ABC license. As a result, the applicant is requesting approval to modify their conditional use permit, as required by Code. Additionally, State Law requires a finding of public convenience or necessity for the proposed sale of liquor.

ANALYSIS

Conditional Use Permit

The business is currently open seven days a week and hours of operation are 8:00 a.m. to 9:30 p.m., which will not change as a result of the proposed liquor sales. The retail sales of alcohol will remain ancillary to the primary specialty market/delicatessen use.

It is staff's opinion the proposed use, with the recommended conditions of approval, will be reasonably compatible with the surrounding businesses since the use is existing and there have been no problems regarding compliance with their current conditional use permit. The conditions of approval, which are standard for establishments with on- or off-site retail alcohol sales, are intended to minimize impacts to adjacent properties.

Public Convenience or Necessity Finding

Under State Law, ABC cannot approve the issuance of a license in an area of "undue concentration" unless the City's legislative body makes a finding that public convenience or necessity would be served by the issuance of the license. Government Code Section 23958.4 defines "undue concentration" as being an area where there is high crime (defined as an area exceeding the City-wide average crime rate by more than 20 percent), and/or the ratio of the number of ABC licenses to population within the census tract exceeds the countywide ratio of the number of ABC licenses to population.

Both circumstances (high crime and an excessive ratio of ABC licenses to population) exist for the area in which the proposed use is located. A map showing the high crime areas in the City is attached to this report for reference. The number of off-sale licenses within the census tract is summarized in the table below:

| Number of Off-Sale Licenses Within Census Tract 639.080 (Subject Property) | |
|---|----------|
| | Off-Sale |
| Number of Off-Sale Licenses Allowed | 4 |
| Number of Existing Off-Sale Licenses | 10 |

Source: ABC

The Police Department has reviewed the applicant's request and has no objections to the proposal. Despite the fact that the area is considered to have undue concentration, it is staff's opinion that a finding of public convenience can be made since, as indicated previously, the proposed liquor sales is for an existing business which has not had a record of Code Enforcement or Police problems, nor have there been any violations of the conditions of approval for their current CUP.

In the past, the City has required applicants to acquire and transfer new licenses from an establishment inside the City, or, in the case of an establishment that already has an existing license, surrender the existing license to ABC, so the citywide number of ABC licenses would not increase. In this case, staff is recommending, as a condition of approval, that the applicant surrender the Type 20 ABC license (condition number 6) if the Type 21 license is granted.

ALTERNATIVES

The Planning Commission may consider the following alternatives:

1. Approve the CUP and make the finding for public convenience and necessity, subject to requiring that the current license be surrendered to ABC, thereby not increasing the citywide number of ABC licenses; or
2. Deny the application, which would prohibit the proposed sale of liquor at the establishment. The applicant would still be allowed to sell beer and wine.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act.

CONCLUSION

The business already sells beer and wine with no complaints or problems noted by Code Enforcement or the Police Department. Hours of operation will remain unchanged even with the expanded sales of alcoholic beverages. With the recommended conditions of approval, no impacts on the surrounding properties are anticipated. Staff believes that Planning Commission can make a finding of public convenience without any resulting adverse impact on the surrounding community.

Attachments: Draft Planning Commission Resolution
Exhibit "A" - Draft Findings
Exhibit "B" - Draft Conditions of Approval
Applicant's Project Description and Justification
Maps/Plans

cc: Deputy City Manager - Dev. Svs. Director
Sr. Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Donald A. Bailey
17853 Santiago Boulevard, #107 PMB315
Villa Park, CA 92861

John B. Heffernan
26 Corporate Plaza Drive, #100
Newport Beach, CA 92660

Alvand Market
3033 Bristol Street, Suite G
Costa Mesa, CA 92626

| | | |
|--------------------|--------------|-----------------|
| File: 102405PA0540 | Date: 101305 | Time: 2:15 p.m. |
|--------------------|--------------|-----------------|

RESOLUTION NO. PC-05-72

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING PLANNING
APPLICATION PA-05-40**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

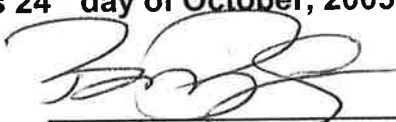
WHEREAS, an application was filed by Donald A. Bailey, authorized agent for John B. Heffernan, with respect to the real property located at 3303 Bristol Street, Suite G, requesting approval of a modification to a conditional use permit for an existing delicatessen and market to add off-sale liquor to the existing permitted off-sale beer and wine sales, with a request that the Planning Commission make a finding of public convenience or necessity to allow a State Alcoholic Beverage Control (ABC) license for in the C1 zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on October 24, 2005.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** Planning Application PA-05-40 with respect to the property described above and makes a finding that public convenience or necessity would be served by the issuance of the State Alcoholic Beverage Control (ABC) license.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Planning Application PA-05-40 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 24th day of October, 2005.



Bill Perkins, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on October 24, 2005, by the following votes:

AYES: COMMISSIONERS: PERKINS, HALL, GARLICH

NOES: COMMISSIONERS: EGAN, FISLER

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

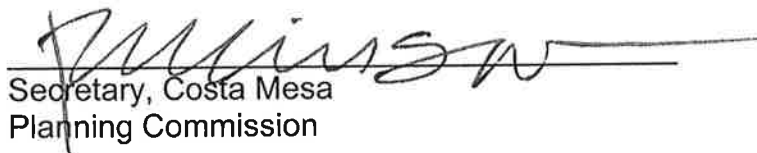

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The proposed use complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed use is compatible and harmonious with uses on surrounding properties.
 2. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 3. The use is consistent with the General Plan.
 4. The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29 (g)(2) in that the proposed specialty retail store is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety, and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the sale of alcohol will be limited to within normal retail store hours (no late-night sales) and the use is unlike a traditional "liquor store", but a combination market and delicatessen selling specialty food items. As a result, public convenience or necessity would be served by the issuance of the State Alcoholic Beverage Control (ABC) license for the proposed use.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

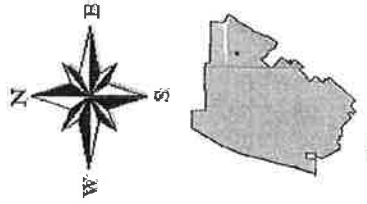
- Plng.
1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 2. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 3. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
 4. The conditions of approval for PA-91-82, shall continue to be complied with, including, but not limited to, the following:
 - A. Hours of operation shall be limited to between the hours of 8:00 a.m. to 9:30 p.m., seven days a week.
 - B. At no time shall seating of any type, including, but not limited to, indoors or outdoors, tables or counter exceed 12.
 - C. The outdoor seating shall not inhibit pedestrian circulation and/or interfere with handicap access from the ramp adjacent to the walkway.
 - D. On-site consumption of alcoholic beverages shall not be permitted.
 - E. Sales of alcoholic beverages shall remain ancillary to the primary market/delicatessen use.
 5. Any change in the operational characteristics including, but not limited to, hours of operation and nature and variety of products sold, shall require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
 6. The applicant shall surrender the current Type "20" license to ABC, so that the citywide number of ABC licenses does not increase.
 7. No wine shall be sold with an alcoholic content of greater than 15% of volume except for "Dinner Wines" which have been aged two years or more and maintained in corked bottles.
 8. Wine shall not be sold in bottles or containers smaller than 750 milliliters.
 9. Sales of separate alcoholic containers for individual consumption, excluding wine and spirits, unless packaged for sale as such by the manufacturer, are prohibited.
 10. Malt beverages, wine coolers or pre-mixed distilled spirit cocktails (if allowed by the license) packed in 16-ounce containers or smaller, may not be sold as single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.

11. Beer or wine shall not be displayed or sold from an ice tub or any type of portable refrigerated unit.

3033 BRISTOL

Legend

- Street Names
- Parcel Lines
- Ortho Photography
- Parcels



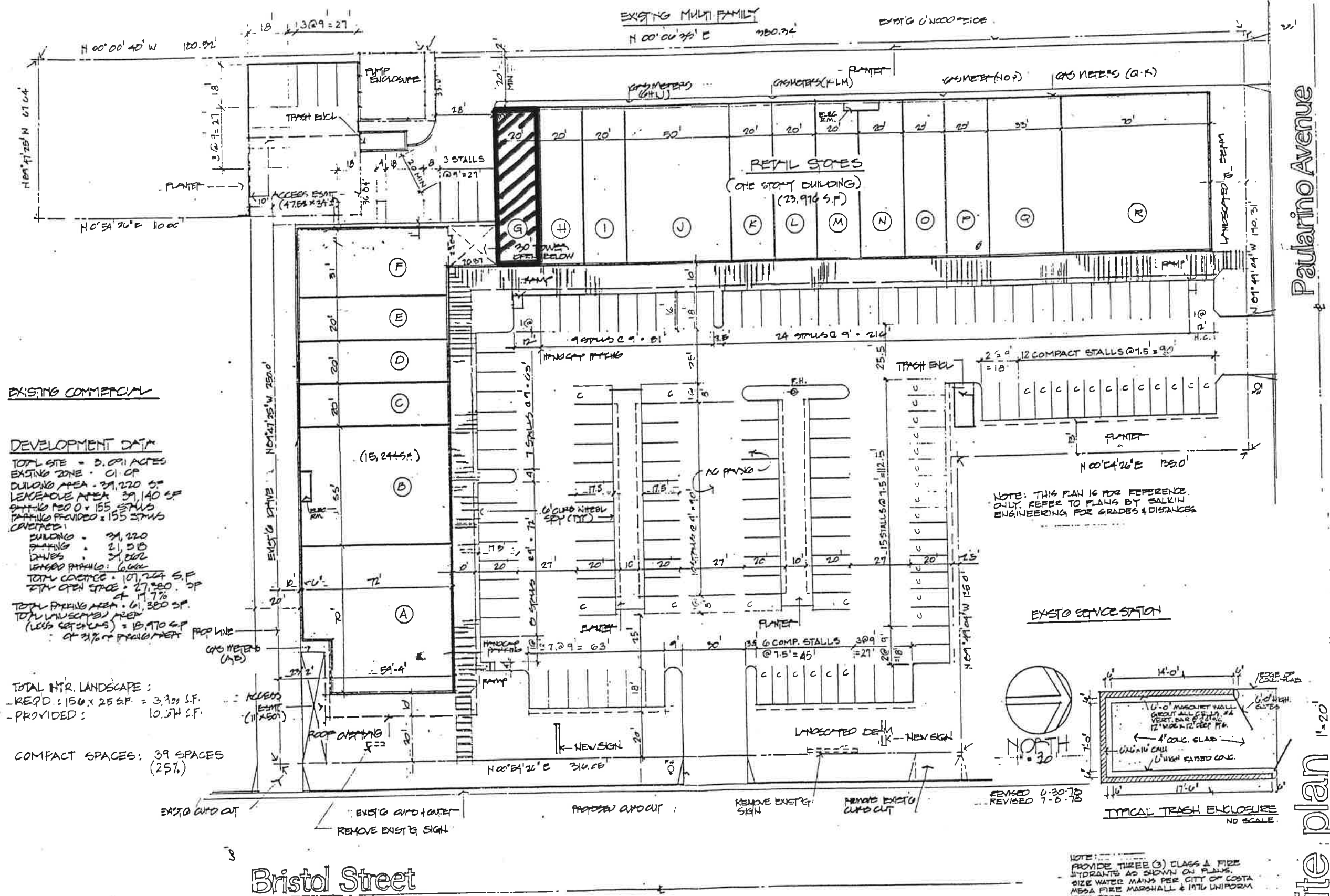
EXISTING COMMERCIAL

DEVELOPMENT DATA

TOTAL SITE - 3.091 ACRES
 EXISTING ZONE - C1-CP
 BUILDING AREA - 31,220 SF
 LEASEABLE AREA - 31,140 SF
 PARKING PROVIDED - 155 SPACES
 COVERED PARKING - 6,000 SF
 TOTAL COVERED - 107,224 S.F.
 TOTAL OPEN SPACE - 27,380 SF
 TOTAL PARKING AREA - 61,380 SF
 TOTAL LANDSCAPED AREA - 15,970 SF
 (LESS SETBACKS) - 15,970 SF
 AT 21% OF PROJECT AREA

TOTAL INT'L. LANDSCAPE:
 - REQ'D: 150 x 25 SF = 3,750 S.F.
 - PROVIDED: 10,370 S.F.

COMPACT SPACES: 39 SPACES
 (25%)

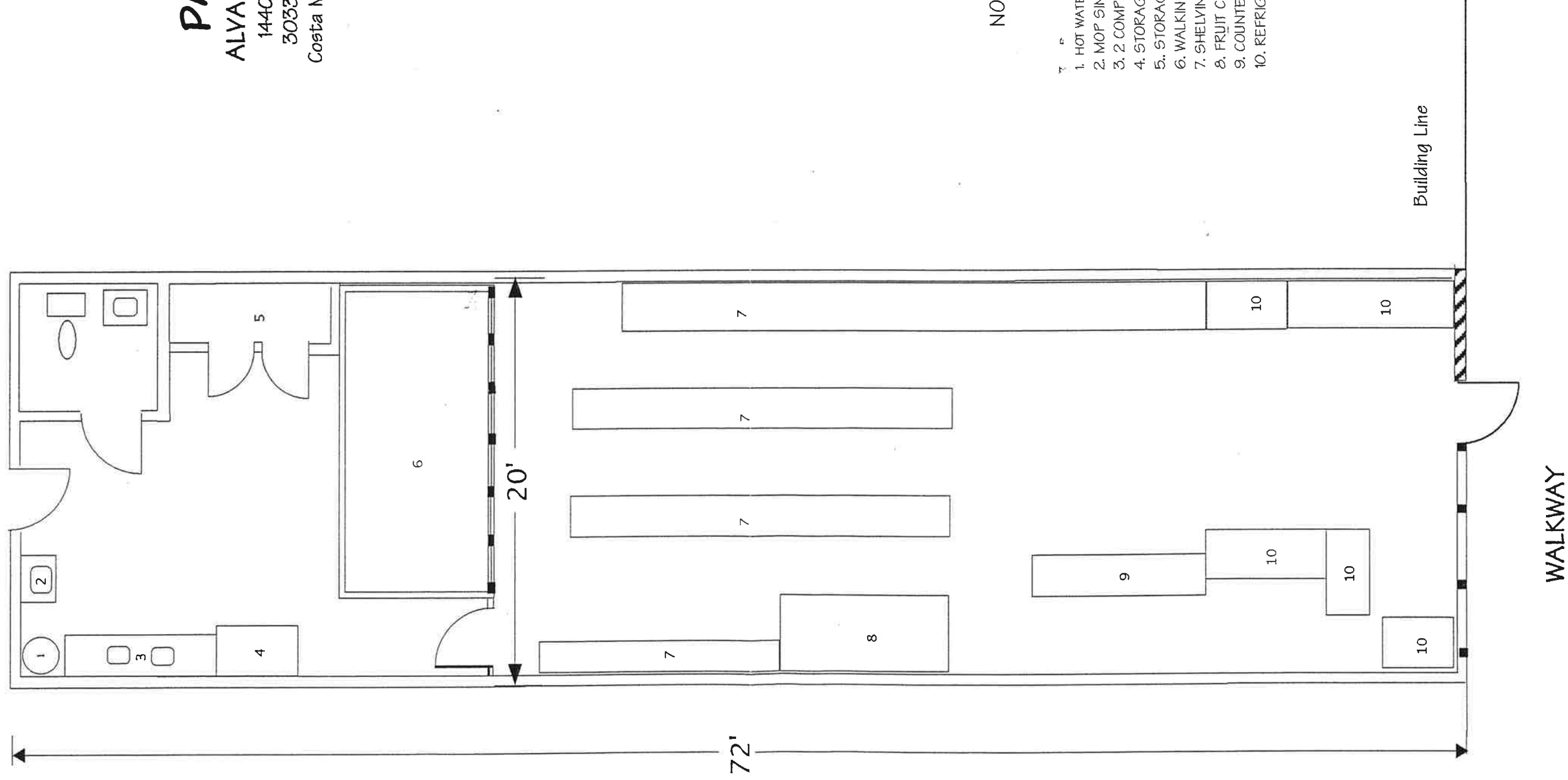


Craig Combs Associates
 ARCHITECTS PLANNERS
 1535 Monrovia Avenue Newport Beach
 California 92663
 714/645-8040

Project
COMMERCIAL CENTER
 3033 Bristol Street
 Costa Mesa

| Title | |
|-----------|--------------|
| PA-05-40 | |
| Revisions | |
| ▲ | Date 4.20.93 |
| ▲ | Drawn |
| ▲ | Job |
| ▲ | Sheet 1 of 3 |

File
PA-05-40
ALVAND MARKET
1440 Square Feet
3033 G Bristol St.
Costa Mesa, CA 92626



NOTES

1. HOT WATER HEATER
2. MOP SINK
3. 2 COMPARTMENT SINK
4. STORAGE CASE
5. STORAGE ROOM
6. WALKIN COOLER
7. SHELVING
8. FRUIT COOLER
9. COUNTER
10. REFRIGERATION CASES

PLANNING DIVISION STAFF REPORT

AGENDA NO. 68

SITE LOCATION 3033 S. Bristol St., #G APPLICATION NO. PA-91-82
AP # 418-131-07 MANDATORY ACTION DATE March 16, 1992
APPLICANT D. A. Bailey AUTHORIZED AGENT Sohrab Rowshan
(Owner of Record)
ADDRESS 2811 East Katella, #200 ADDRESS 3033 S. Bristol, #G
Orange, CA 92667 Costa Mesa, CA 92626

Applicant is reminded that all ordinances and regulations governing the use of the land or building(s) to which this application pertains must be complied with whether specified herein or not.

PREPARED BY Jimmy K. Basham
Associate Planner

DATE PREPARED September 23, 1991

LAST UPDATE September 23, 1991

REQUEST:

For a delicatessen/market with seating for 12 or less and to allow alcoholic beverages (beer and wine) within 200 feet of residentially zoned property.

STAFF RECOMMENDATION:

Approve, subject to conditions.

FINAL COMMISSION ACTION: September 23, 1991

Approved, based on Planning Staff analysis and findings contained in the Planning Division Staff Report, subject to conditions.

(4-0, Mr. Palme was absent)

APPLICANT NOTIFIED ns DATE September 24, 1991

CITY OF COSTA MESA, 77 FAIR DRIVE, COSTA MESA, CA 92628-1200 (714) 754-5245



I. DESCRIPTION

A. Subject Property

1. Location - 3033 Bristol Street, Suite G
2. General Plan Designation - General Commercial
3. Zone - C1
4. Present Development - Shopping Center
5. Lot Area - 3.1 acres
6. CEQA - Exempt

B. Surrounding Property

1. North - C1, Gas station
2. South - C1, Misc. commercial
3. East - C1, Misc. commercial (across Bristol St.)
4. West - R3, Multi-Family residential

C. Request

A Conditional Use Permit for a delicatessen and market with 12 or less seating and to allow off-sale alcoholic beverages (beer and wine) within 200 feet of residentially zoned property.

II. PROJECT DESCRIPTION

The applicant currently operates a market and delicatessen at this location. All the items which are purchased from the market are consumed off-site. The applicant would like to enhance his business by providing seating for convenient on-site food and non-alcoholic beverage consumption.

A Conditional Use Permit is required since the property is within 200 feet of residentially zoned property.

III. PLANNING STAFF ANALYSIS

In accordance with the Costa Mesa Municipal Code, the parking requirement for an eating and/or drinking establishment with seating for 12 or less is calculated at the same ratio as retail. The existing shopping center is 39,220 square feet and provides a minimum of 148 parking spaces. According to City records, the parking spaces provided were calculated at a ratio permitted at that time.

The applicant would like to situate 12 seats and 6 tables outdoors along the front area of the store. It is not anticipated that any problems would occur with this request since the shopping center was constructed with an pedestrian walkway approximately 10 feet wide. Staff believes, the outdoor seating should not inhibit on-site pedestrian circulation since the walkway is wider than the typical minimum walkway width of 4 feet. Also, the outdoor seating would not inhibit handicap access from the ramp adjacent to the walkway.

The hours of operation for the market and delicatessen would be from 11:00 a.m. to 6:00 p.m. Sunday and 7:00 a.m. to 6:00 p.m. Monday through Saturday. These hours are comparable to other existing restaurants within the vicinity. The applicant is in the process of obtaining a license from the Alcoholic Beverage Control to sell beer and wine. Staff has not received any complaints from the Police Department or citizens relating to any opposition to the selling of alcoholic beverages from this site. Staff would like to note that in accordance with the Alcoholic Beverage Control, the applicant is applying for Liquor License #20, which permits off-sale only, not to be consumed on-site.

Staff believes the proposed use would not create a detrimental effect on surrounding uses. The use is comparable with the surrounding uses and should not significantly impact the site.

IV. PLANNING STAFF FINDINGS

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-347 in that the market/delicatessen with off-sale beer and wine is substantially compatible with developments in the same general area; granting of the Conditional Use Permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity; and granting of the Conditional Use Permit will not allow a use, density or intensity which is not in accordance with the General Plan designation for the property.

B. The project is consistent with Article 22-1/2, Transportation Systems Management, of the Costa Mesa Municipal Code in that no intersection to which the project contributes measurable traffic shall operate at less than the Standard Level of Service as a result of project implementation.

V. PLANNING STAFF RECOMMENDATION

Approve, subject to conditions.

VI. CONDITIONS, IF APPROVED

Shall meet all requirements of the various City Departments, copy attached hereto.

CONDITIONS OF APPROVAL

1. The Conditional Use Permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The Conditional Use Permit may be referred to the Planning Commission for modification or revocation at any time if the Conditions of Approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the Development Services Director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. Steel mesh screens, or an equivalent filter system sufficient to prevent odors and reduce smoke, shall be installed above the kitchen cooking area. The filters shall be indicated on the working drawings to the satisfaction of the Building Division Staff. The filters shall be cleaned at least four (4) times a year.
3. A copy of the conditions of approval for the Conditional Use Permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
4. The market/delicatessen hours of operation shall be limited to 11:00 a.m. to 10:00 p.m. Sunday and 7:00 a.m. to 10:00 p.m. Monday through Saturday.
5. Live entertainment shall not be permitted unless approved as a modification of this Conditional Use Permit.
6. At no time shall seating of any type (including, but not limited to, indoors or outdoors, tables or counter), exceed 12.
7. Alcoholic beverages shall not be consumed in areas related to this suite.
8. The outdoor seating shall not inhibit pedestrian circulation and/or interfere with handicap access from the ramp adjacent to the walkway.

ORDINANCE AND/OR CODE PROVISIONS

The following list of Federal, State, and local laws applicable to the project has been compiled by Staff for the applicant's reference.

- Plng. 1. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final occupancy and utility releases will not be granted, and final inspections will not be granted until all such licenses have been obtained.
- 2. Permits shall be obtained for all signs, including banners and other special event signing, according to the provisions of the Costa Mesa Sign Ordinance.
- Bldg. 3. Comply with the requirements of the Uniform Building Code as to design and construction.
- Fire 4. Provide fire extinguishers with a minimum rating of 2A to be located within 75 feet of travel distance from all areas. Extinguishers may be of a type rated 2A,10BC as these extinguishers are suitable for all types of fires and are less expensive.

JKD(PA9182)

SEP 16 1991

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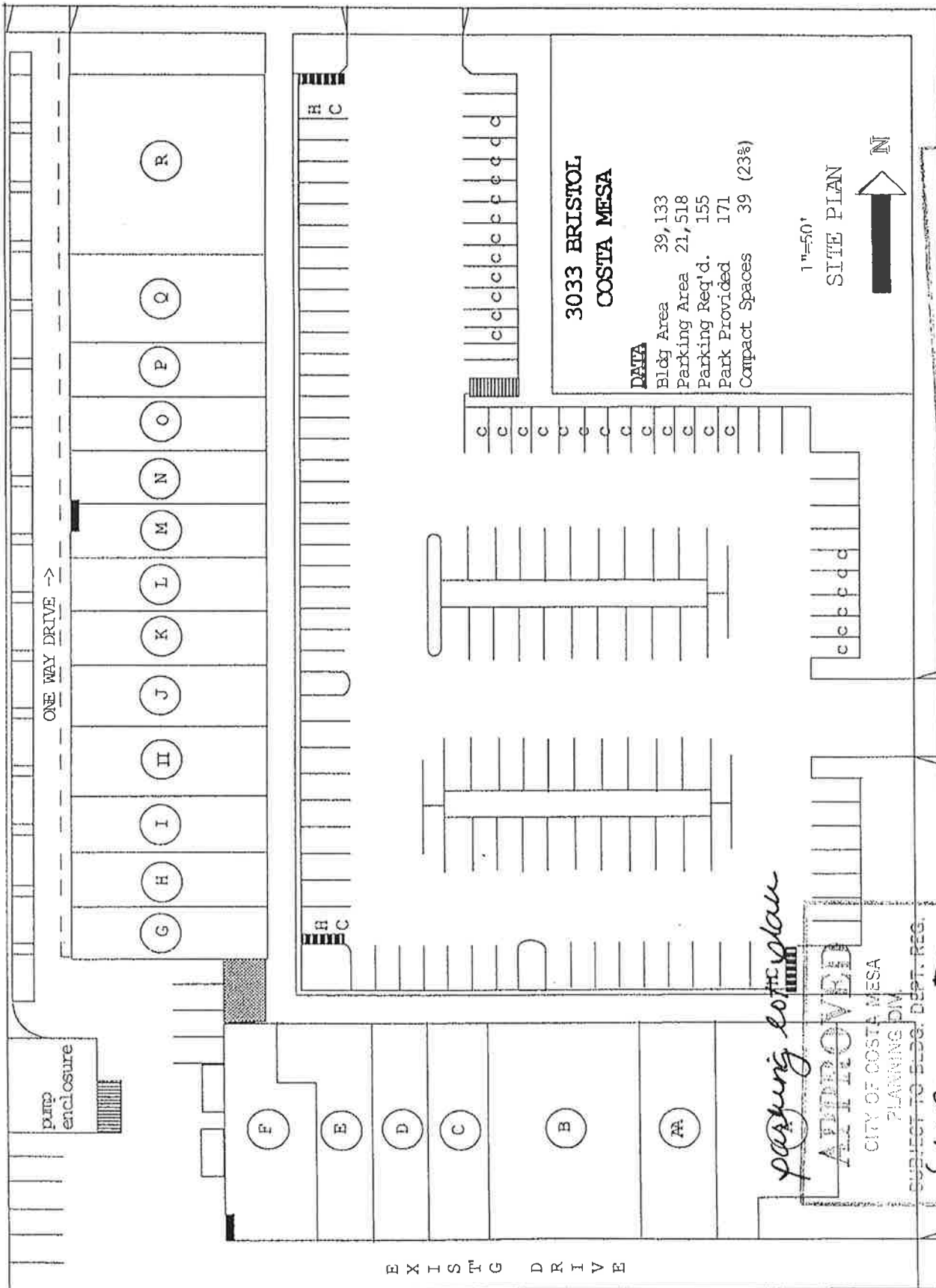
30 TOWER
OPEN BELOW

6 tables
and 12 seats

- Ramp

Existing
Landscape

REVISED PLAN PA-9102.
- 2033 Bristol St.



NOT
ADDITIONS, DELETIONS, OR
BE APPROVED BY THE

BRISTOL STREET

passing lot plan

APPROVED
CITY OF COSTA MESA
PLANNING DIV.
SUBJECT TO BLDG. DEPT. REG.
BY Allen DATE 5/8/97

add 14 std spaces
old by Building - no special permits